



House of Representatives

General Assembly

File No. 245

February Session, 2014

Substitute House Bill No. 5289

House of Representatives, April 1, 2014

The Committee on Transportation reported through REP. GUERRERA of the 29th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT ESTABLISHING THE CONNECTICUT PORT AUTHORITY.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective July 1, 2015*) (a) There is hereby
2 established and created a body politic and corporate, constituting a
3 public instrumentality and political subdivision of the state of
4 Connecticut established and created for the performance of an
5 essential public and governmental function, to be known as the
6 Connecticut Port Authority. The authority shall not be construed to be
7 a department, institution or agency of the state.

8 (b) The powers of the authority shall be vested in and exercised by a
9 board of directors, which shall consist of seven voting members,
10 appointed as follows: (1) One appointed by the speaker of the House of
11 Representatives for a term of four years; (2) one appointed by the
12 minority leader of the House of Representatives for a term of four
13 years; (3) one appointed by the president pro tempore of the Senate for
14 a term of four years; (4) one appointed by the minority leader of the
15 Senate for a term of four years; and (5) three appointed by the

16 Governor each for a term of four years. Thereafter, such members of
17 the General Assembly and the Governor shall appoint members of the
18 board to succeed such appointees whose terms expire and each
19 member so appointed shall hold office for a period of four years from
20 the first day of July in the year of his or her appointment. The
21 Commissioner of Energy and Environmental Protection, the
22 Commissioner of Transportation and the Commissioner of Economic
23 and Community Development shall each serve as nonvoting, ex-officio
24 members of the board. Appointed members shall have business and
25 management experience and shall include individuals who have
26 experience and expertise in one or more of the following areas: (A)
27 International trade, (B) marine transportation, (C) finance, or (D)
28 economic development.

29 (c) Appointed members of the board of directors may not designate
30 a representative to perform in their absence their respective duties
31 under this section. Any appointed member who fails to attend three
32 consecutive meetings of the board or who fails to attend fifty per cent
33 of all meetings of the board held during any calendar year shall be
34 deemed to have resigned from the board. Any vacancy occurring other
35 than by expiration of term shall be filled in the same manner as the
36 original appointment for the balance of the unexpired term.

37 (d) The board of directors of the authority shall appoint an executive
38 director who shall not be a member of the board and who shall serve at
39 the pleasure of the board and receive such compensation as shall be
40 fixed by the board. The executive director shall have extensive
41 experience in the development and management of multi-use port
42 operations. The executive director shall be the chief administrative
43 officer of the authority and shall direct and supervise administrative
44 affairs and technical activities in accordance with the directives of the
45 board. The executive director shall approve all accounts for salaries,
46 allowable expenses of the authority or of any employee or consultant
47 thereof, and expenses incidental to the operation of the authority. The
48 executive director shall perform such other duties as may be directed
49 by the board in carrying out the purposes of sections 1 to 4, inclusive,

50 of this act. The executive director shall be exempt from the classified
51 service. The executive director shall attend all meetings of the board,
52 keep a record of the proceedings of the authority and shall maintain
53 and be custodian of all books, documents and papers filed with the
54 authority and of the minute book or journal of the authority and of its
55 official seal. The executive director may cause copies to be made of all
56 minutes and other records and documents of the authority and may
57 give certificates under the official seal of the authority to the effect that
58 such copies are true copies, and all persons dealing with the authority
59 may rely upon such certificates.

60 (e) Each member of the board of directors shall be entitled to
61 reimbursement for such member's actual and necessary expenses
62 incurred during the performance of such member's official duties.

63 (f) Members of the board of directors may engage in private
64 employment, or in a profession or business, subject to any applicable
65 laws, rules and regulations of the state or federal government
66 regarding official ethics or conflict of interest.

67 (g) Four members of the board of directors shall constitute a
68 quorum for the transaction of any business or the exercise of any
69 power of the authority. For the transaction of any business or the
70 exercise of any power of the authority, and, except as otherwise
71 provided in this section, the authority may act by a majority of the
72 members present at any meeting at which a quorum is in attendance.

73 (h) The board of directors may delegate to four or more members of
74 such board powers and duties as it may deem necessary and proper in
75 conformity with the provisions of this section and its bylaws.

76 (i) The appointing authority for any member of the board of
77 directors may remove such director for inefficiency, neglect of duty or
78 misconduct in office after giving the member a copy of the charges
79 against the member and an opportunity to be heard, in person or by
80 counsel, in the member's defense, upon not less than ten days' notice. If
81 any member shall be so removed, the appointing authority for such

82 member shall file in the office of the Secretary of the State a complete
83 statement of charges made against such member and the appointing
84 authority's findings on such statement of charges, together with a
85 complete record of the proceedings.

86 (j) The authority shall continue as long as it has bonds or other
87 obligations outstanding and until its existence is terminated by law.
88 Upon the termination of the existence of the authority, all its rights and
89 properties shall pass to and be vested in the state of Connecticut.

90 (k) Notwithstanding any provision of the general statutes, it shall
91 not constitute a conflict of interest for a trustee, director, partner or
92 officer of any person, firm or corporation, or any individual having a
93 financial interest in a person, firm or corporation, to serve as a director
94 of the authority, provided such trustee, director, partner, officer or
95 individual shall abstain from deliberation, action or vote by the board
96 in specific respect to such person, firm or corporation.

97 (l) The Governor shall appoint the chairperson of the board, who
98 shall serve for a term of four years. The board shall elect from its
99 members a vice-chairperson and such other officers as it deems
100 necessary. Vacancies among any officers shall be filled not later than
101 thirty days following the occurrence of such vacancy in the same
102 manner as the original selection. Said board shall establish bylaws to
103 govern its procedures and shall appoint such committees and advisory
104 boards as may be convenient or necessary in the transaction of its
105 business.

106 (m) The initial members of the board may begin service
107 immediately upon appointment, but shall not serve past the sixth
108 Wednesday of the next regular session of the General Assembly unless
109 qualified in the manner provided in section 4-7 of the general statutes.
110 Thereafter, all appointments shall be made with the advice and
111 consent of both houses of the General Assembly, in the manner
112 provided in section 4-19 of the general statutes.

113 Sec. 2. (NEW) (*Effective July 1, 2015*) (a) The Connecticut Port

114 Authority shall have the duty, power and authority generally to
115 coordinate port development, with a focus on private and public
116 investments, pursue federal and state funds for dredging and other
117 infrastructure improvements to increase cargo movement through
118 Connecticut ports, market the advantages of such ports to the domestic
119 and international shipping industry, coordinate the planning and
120 funding of capital projects promoting the development of such ports
121 and develop strategic entrepreneurial initiatives that may be available
122 to the state, and specifically to:

123 (1) Develop an organizational and management structure that will
124 best accomplish the goals of the authority concerning Connecticut
125 ports;

126 (2) Create a code of conduct for the board of directors of the
127 authority consistent with part I of chapter 10 of the general statutes;

128 (3) On or before December fifteenth each year, report, in accordance
129 with the provisions of section 11-4a of the general statutes, to the
130 Governor and the joint standing committees of the General Assembly
131 having cognizance of matters relating to transportation, commerce and
132 the environment, summarizing the authority's activities, disclosing
133 operating and financial statements and recommending legislation to
134 promote the authority's purposes;

135 (4) Adopt rules for the conduct of its business which shall not be
136 considered regulations, as defined in subdivision (13) of section 4-166
137 of the general statutes;

138 (5) Receive and accept aid or contributions from any source of
139 money, property, labor or other things of value, to be held, used and
140 applied to carry out the purposes of sections 1 to 4, inclusive, of this
141 act, subject to such conditions upon which such grants and
142 contributions may be made, including, but not limited to, gifts or
143 grants from any department, agency or instrumentality of the United
144 States or this state for any purpose consistent with sections 1 to 4,
145 inclusive, of this act;

146 (6) Enter into agreements with any department, agency, office or
147 instrumentality of the United States or this state, including the office of
148 the State Treasurer, to carry out the purposes of sections 1 to 4,
149 inclusive, of this act;

150 (7) The extent permitted under sections 1 to 4, inclusive, of this act,
151 borrow money or secure credit on a temporary, short-term, interim or
152 long-term basis;

153 (8) Issue bonds, bond anticipation notes and other obligations of the
154 authority to the extent permitted under sections 1 to 4, inclusive, of
155 this act, to fund and refund the same and provide for the rights of the
156 holders thereof, and to secure the same by pledge of revenues, notes
157 and mortgages of others;

158 (9) Acquire, lease, hold and dispose of real and personal property,
159 including, but not limited to, any state pier real property under its
160 control, for its corporate purposes. Notwithstanding this subdivision,
161 the authority shall not convey fee simple ownership in any land under
162 its jurisdiction and control without the approval of the State Properties
163 Review Board and the Attorney General;

164 (10) Employ such assistants, agents and other employees, including
165 a marketing manager with experience (A) in port market development
166 and promotion, and (B) working with vessel operators, railroads, the
167 shipping industry and the trucking industry, and to engage
168 consultants and such other independent professionals as may be
169 necessary or desirable to carry out its purposes in accordance with
170 sections 1 to 4, inclusive, of this act and, except for such employees
171 who are covered by collective bargaining agreements, to fix their
172 compensation, and to provide technical assistance as provided in
173 sections 1 to 4, inclusive, of this act;

174 (11) Maintain an office at such place or places as it may designate;

175 (12) Sue and be sued in its own name, and plead and be impleaded;

176 (13) Mortgage any property of the authority for the benefit of the

177 holders of obligations issued by the authority;

178 (14) Make and enter into all contracts and agreements necessary or
179 incidental to the performance of its duties and the execution of its
180 powers under sections 1 to 4, inclusive, of this act, including, but not
181 limited to, the granting of leasehold interests, concession, access and
182 development rights and privileges, supplier, vendor, contractor and
183 consultant contracts; and

184 (15) Do all acts and things necessary or convenient to carry out the
185 purposes of sections 1 to 4, inclusive, of this act and chapter 242 of the
186 general statutes and the powers expressly granted by sections 1 to 4,
187 inclusive, of this act.

188 (b) To serve its purpose, the authority may:

189 (1) Have perpetual succession as a body politic and corporate and to
190 adopt bylaws for the regulation of its affairs and the conduct of its
191 business;

192 (2) Adopt an official seal and alter the same at pleasure;

193 (3) (A) Employ such assistants, agents and other employees as may
194 be necessary or desirable; (B) establish all necessary or appropriate
195 personnel practices and policies; and (C) engage consultants, attorneys
196 and appraisers as may be necessary or desirable to carry out its
197 purposes in accordance with this section;

198 (4) Invest in, acquire, lease, purchase, own, manage, hold and
199 dispose of real property, including, but not limited to, any state pier
200 real property under its control, and lease, convey or deal in or enter
201 into agreements with respect to such property on any terms necessary
202 or incidental to carrying out the purposes of sections 1 to 4, inclusive,
203 of this act, provided such transactions shall not be subject to approval,
204 review or regulation by any state agency pursuant to title 4b of the
205 general statutes or any other provision of the general statutes.
206 Notwithstanding this subdivision, the authority shall not convey fee
207 simple ownership in any land under its jurisdiction and control

208 without the approval of the State Properties Review Board and the
209 Attorney General;

210 (5) Procure insurance against any liability or loss in connection with
211 its property and other assets, in such amounts and from such insurers
212 as it deems desirable and to procure insurance for employees; and

213 (6) Account for and audit funds of the authority and funds of any
214 recipients of funds from the authority.

215 Sec. 3. (NEW) (*Effective July 1, 2015*) The board of directors of the
216 Connecticut Port Authority shall adopt written procedures, in
217 accordance with the provisions of section 1-121 of the general statutes,
218 for: (1) Adopting an annual budget and plan of operations, including a
219 requirement of board approval before the budget or plan may take
220 effect; (2) hiring, dismissing, promoting and compensating employees
221 of the authority, including an affirmative action policy and a
222 requirement of board approval before a position may be created or a
223 vacancy filled; (3) acquiring real and personal property and personal
224 services, including a requirement of board approval for any
225 nonbudgeted expenditure in excess of five thousand dollars; (4)
226 contracting for financial, legal and other professional services,
227 including a requirement that the authority solicit proposals at least
228 once every three years for each such service which it uses; (5)
229 awarding loans, grants and other financial assistance, including
230 eligibility criteria, the application process and the role played by the
231 authority's staff and board of directors; and (6) the use of surplus
232 funds to the extent authorized under sections 1 to 4, inclusive, of this
233 act or other provision of the general statutes.

234 Sec. 4. (NEW) (*Effective July 1, 2015*) The board of directors of the
235 Connecticut Port Authority shall submit, in accordance with the
236 provisions of section 11-4a of the general statutes, to the joint standing
237 committees of the General Assembly having cognizance of matters
238 relating to appropriations, commerce, the environment and
239 transportation a copy of each audit of the authority conducted by an
240 independent auditing firm, not later than seven days after the audit is

241 received by said board of directors.

242 Sec. 5. Subdivision (12) of section 1-79 of the 2014 supplement to the
243 general statutes is repealed and the following is substituted in lieu
244 thereof (*Effective July 1, 2015*):

245 (12) "Quasi-public agency" means Connecticut Innovations,
246 Incorporated, and the Connecticut Health and Education Facilities
247 Authority, Connecticut Higher Education Supplemental Loan
248 Authority, Connecticut Housing Finance Authority, State Housing
249 Authority, Connecticut Resources Recovery Authority, Capital Region
250 Development Authority, Connecticut Lottery Corporation, Connecticut
251 Airport Authority, Health Information Technology Exchange of
252 Connecticut, Connecticut Health Insurance Exchange, [and] Clean
253 Energy Finance and Investment Authority and Connecticut Port
254 Authority.

255 Sec. 6. Subdivision (1) of section 1-120 of the general statutes is
256 repealed and the following is substituted in lieu thereof (*Effective July*
257 *1, 2015*):

258 (1) "Quasi-public agency" means Connecticut Innovations,
259 Incorporated, and the Connecticut Health and Educational Facilities
260 Authority, Connecticut Higher Education Supplemental Loan
261 Authority, Connecticut Housing Finance Authority, Connecticut
262 Housing Authority, Connecticut Resources Recovery Authority,
263 Capital Region Development Authority, Connecticut Lottery
264 Corporation, Connecticut Airport Authority, Health Information
265 Technology Exchange of Connecticut, Connecticut Health Insurance
266 Exchange, [and] Clean Energy Finance and Investment Authority and
267 Connecticut Port Authority.

268 Sec. 7. Section 1-124 of the general statutes is repealed and the
269 following is substituted in lieu thereof (*Effective July 1, 2015*):

270 (a) Connecticut Innovations, Incorporated, the Connecticut Health
271 and Educational Facilities Authority, the Connecticut Higher

272 Education Supplemental Loan Authority, the Connecticut Housing
273 Finance Authority, the Connecticut Housing Authority, the
274 Connecticut Resources Recovery Authority, the Health Information
275 Technology Exchange of Connecticut, the Connecticut Airport
276 Authority, the Capital Region Development Authority, the
277 Connecticut Health Insurance Exchange, [and] the Clean Energy
278 Finance and Investment Authority and the Connecticut Port Authority
279 shall not borrow any money or issue any bonds or notes which are
280 guaranteed by the state of Connecticut or for which there is a capital
281 reserve fund of any kind which is in any way contributed to or
282 guaranteed by the state of Connecticut until and unless such
283 borrowing or issuance is approved by the State Treasurer or the
284 Deputy State Treasurer appointed pursuant to section 3-12. The
285 approval of the State Treasurer or said deputy shall be based on
286 documentation provided by the authority that it has sufficient
287 revenues to (1) pay the principal of and interest on the bonds and notes
288 issued, (2) establish, increase and maintain any reserves deemed by the
289 authority to be advisable to secure the payment of the principal of and
290 interest on such bonds and notes, (3) pay the cost of maintaining,
291 servicing and properly insuring the purpose for which the proceeds of
292 the bonds and notes have been issued, if applicable, and (4) pay such
293 other costs as may be required.

294 (b) To the extent Connecticut Innovations, Incorporated, and the
295 Connecticut Higher Education Supplemental Loan Authority,
296 Connecticut Housing Finance Authority, Connecticut Housing
297 Authority, Connecticut Resources Recovery Authority, Connecticut
298 Health and Educational Facilities Authority, the Health Information
299 Technology Exchange of Connecticut, the Connecticut Airport
300 Authority, the Capital Region Development Authority, the
301 Connecticut Health Insurance Exchange, [or] the Clean Energy Finance
302 and Investment Authority or the Connecticut Port Authority is
303 permitted by statute and determines to exercise any power to
304 moderate interest rate fluctuations or enter into any investment or
305 program of investment or contract respecting interest rates, currency,
306 cash flow or other similar agreement, including, but not limited to,

307 interest rate or currency swap agreements, the effect of which is to
308 subject a capital reserve fund which is in any way contributed to or
309 guaranteed by the state of Connecticut, to potential liability, such
310 determination shall not be effective until and unless the State
311 Treasurer or his or her deputy appointed pursuant to section 3-12 has
312 approved such agreement or agreements. The approval of the State
313 Treasurer or his or her deputy shall be based on documentation
314 provided by the authority that it has sufficient revenues to meet the
315 financial obligations associated with the agreement or agreements.

316 Sec. 8. Section 1-125 of the general statutes is repealed and the
317 following is substituted in lieu thereof (*Effective July 1, 2015*):

318 The directors, officers and employees of Connecticut Innovations,
319 Incorporated, and the Connecticut Higher Education Supplemental
320 Loan Authority, Connecticut Housing Finance Authority, Connecticut
321 Housing Authority, Connecticut Resources Recovery Authority,
322 including ad hoc members of the Connecticut Resources Recovery
323 Authority, Connecticut Health and Educational Facilities Authority,
324 Capital Region Development Authority, the Health Information
325 Technology Exchange of Connecticut, Connecticut Airport Authority,
326 Connecticut Lottery Corporation, Connecticut Health Insurance
327 Exchange, [and] the Clean Energy Finance and Investment Authority
328 and Connecticut Port Authority and any person executing the bonds or
329 notes of the agency shall not be liable personally on such bonds or
330 notes or be subject to any personal liability or accountability by reason
331 of the issuance thereof, nor shall any director or employee of the
332 agency, including ad hoc members of the Connecticut Resources
333 Recovery Authority, be personally liable for damage or injury, not
334 wanton, reckless, wilful or malicious, caused in the performance of his
335 or her duties and within the scope of his or her employment or
336 appointment as such director, officer or employee, including ad hoc
337 members of the Connecticut Resources Recovery Authority. The
338 agency shall protect, save harmless and indemnify its directors,
339 officers or employees, including ad hoc members of the Connecticut
340 Resources Recovery Authority, from financial loss and expense,

341 including legal fees and costs, if any, arising out of any claim, demand,
342 suit or judgment by reason of alleged negligence or alleged
343 deprivation of any person's civil rights or any other act or omission
344 resulting in damage or injury, if the director, officer or employee,
345 including ad hoc members of the Connecticut Resources Recovery
346 Authority, is found to have been acting in the discharge of his or her
347 duties or within the scope of his or her employment and such act or
348 omission is found not to have been wanton, reckless, wilful or
349 malicious.

350 Sec. 9. Section 13b-51b of the general statutes is repealed and the
351 following is substituted in lieu thereof (*Effective July 1, 2015*):

352 There shall be, within the Department of Transportation, a State
353 Maritime Office which shall: (1) Be responsible for maritime
354 operations, including the State Pier in New London, the Connecticut
355 River ferries and such other operational responsibilities as shall be
356 assigned to it; (2) serve as the Governor's principal maritime policy
357 advisor; (3) serve as the liaison between the state and federal, local and
358 private entities involved in maritime policy activities; (4) coordinate
359 the state's maritime policy activities; (5) encourage year-round use of
360 water-related industries; (6) work with the Department of Economic
361 and Community Development and other state, local and private
362 entities to maximize the economic potential of Connecticut's ports and
363 other maritime resources; (7) conduct necessary research and planning
364 activities; (8) assess potential state investments in ports and other
365 maritime facilities; (9) [provide staff support to the Connecticut
366 Maritime Commission, created in section 13b-51a; (10)] provide staff
367 support to the Connecticut Pilot Commission created by section 15-13c;
368 and [(11)] (10) undertake such other responsibilities as may be
369 assigned to it by the commissioner or the Governor.

370 Sec. 10. Section 13b-55a of the general statutes is repealed and the
371 following is substituted in lieu thereof (*Effective July 1, 2015*):

372 (a) In addition to municipal requests for a grant-in-aid pursuant to
373 section 13b-57, harbor improvement projects may be initiated by the

374 Commissioner of Transportation on behalf of the state or for the state
375 on behalf of the federal government. Recommendations on the
376 prioritization or inclusion of projects shall be submitted to the
377 commissioner by the Connecticut [Maritime Commission] Port
378 Authority. The department shall contract for the provision of goods
379 and services to harbors and waterways for such improvements, and
380 shall provide the funding required under such contracts, except that
381 the commissioner may enter into agreements with other state agencies
382 or municipalities for such agencies or municipalities to provide the
383 funding for any of such contracts. The department shall administer all
384 contracts entered into under this section.

385 (b) All contracts are subject to final negotiation of the scope and
386 budget for a given project. Contracting periods may vary depending
387 on each project. Payments shall be made on a reimbursement basis for
388 deliverables completed no later than the dates of service of an executed
389 contract. Appropriate back-up information shall be included with each
390 payment request indicating that services have been rendered. The
391 department may elect to provide part or all of the funds necessary as
392 an upfront payment, provided funds are held in a separate, noninterest
393 bearing account and are expended not later than sixty days after such
394 funds are provided.

395 (c) Harbor improvement projects include the preparation of plans,
396 studies and construction for the alteration and improvement of various
397 state, municipal and other properties in or adjacent to the waters of the
398 state, for the purpose of improving the economy and infrastructure of
399 the state.

400 Sec. 11. Subdivision (2) of subsection (b) of section 12-587 of the 2014
401 supplement to the general statutes is repealed and the following is
402 substituted in lieu thereof (*Effective from passage*):

403 (2) Gross earnings derived from the first sale of the following
404 petroleum products within this state shall be exempt from tax: (A) Any
405 petroleum products sold for exportation from this state for sale or use
406 outside this state; (B) the product designated by the American Society

407 for Testing and Materials as "Specification for Heating Oil D396-69",
408 commonly known as number 2 heating oil, to be used exclusively for
409 heating purposes or to be used in a commercial fishing vessel, which
410 vessel qualifies for an exemption pursuant to section 12-412; (C)
411 kerosene, commonly known as number 1 oil, to be used exclusively for
412 heating purposes, provided delivery is of both number 1 and number 2
413 oil, and via a truck with a metered delivery ticket to a residential
414 dwelling or to a centrally metered system serving a group of
415 residential dwellings; (D) the product identified as propane gas, to be
416 used exclusively for heating purposes; (E) bunker fuel oil, intermediate
417 fuel, marine diesel oil and marine gas oil to be used in any vessel (i)
418 having a displacement exceeding four thousand dead weight tons, or
419 (ii) primarily engaged in interstate commerce; (F) for any first sale
420 occurring prior to July 1, 2008, propane gas to be used as a fuel for a
421 motor vehicle; (G) for any first sale occurring on or after July 1, 2002,
422 grade number 6 fuel oil, as defined in regulations adopted pursuant to
423 section 16a-22c, to be used exclusively by a company which, in
424 accordance with census data contained in the Standard Industrial
425 Classification Manual, United States Office of Management and
426 Budget, 1987 edition, is included in code classifications 2000 to 3999,
427 inclusive, or in Sector 31, 32 or 33 in the North American Industrial
428 Classification System United States Manual, United States Office of
429 Management and Budget, 1997 edition; (H) for any first sale occurring
430 on or after July 1, 2002, number 2 heating oil to be used exclusively in a
431 vessel primarily engaged in interstate commerce, which vessel
432 qualifies for an exemption under section 12-412; (I) for any first sale
433 occurring on or after July 1, 2000, paraffin or microcrystalline waxes;
434 (J) for any first sale occurring prior to July 1, 2008, petroleum products
435 to be used as a fuel for a fuel cell, as defined in subdivision (113) of
436 section 12-412; (K) a commercial heating oil blend containing not less
437 than ten per cent of alternative fuels derived from agricultural
438 produce, food waste, waste vegetable oil or municipal solid waste,
439 including, but not limited to, biodiesel or low sulfur dyed diesel fuel;
440 (L) for any first sale occurring on or after July 1, 2007, diesel fuel other
441 than diesel fuel to be used in an electric generating facility to generate

442 electricity; (M) for any first sale occurring on or after July 1, 2013,
443 cosmetic grade mineral oil; or (N) propane gas to be used as a fuel for a
444 school bus.

445 Sec. 12. Subdivision (3) of subsection (a) of section 12-458 of the
446 general statutes is repealed and the following is substituted in lieu
447 thereof (*Effective from passage*):

448 (3) Said tax shall not be payable on such fuel as may have been (A)
449 sold to the United States, (B) sold to a municipality of this state, (i) for
450 use by any contractor performing a service for such municipality in
451 accordance with a contract, provided such fuel is used by such
452 contractor exclusively for the purposes of and in accordance with such
453 contract, or (ii) for use exclusively in a school bus, as defined in section
454 14-275, (C) sold to a municipality of this state, a transit district of this
455 state, or this state, at other than a retail outlet, for governmental
456 purposes and for use in vehicles owned and operated, or leased and
457 operated by such municipality, such transit district or this state, (D)
458 sold to a person licensed as a distributor in this state under section 12-
459 456, (E) transferred from storage within this state to some point
460 without this state, (F) sold to the holder of a permit issued under
461 section 12-458a for sale or use without this state, (G) sold to the holder
462 of a permit issued under subdivision (63) of section 12-412, provided
463 (i) such fuel is not used in motor vehicles registered or required to be
464 registered to operate upon the public highways of this state, unless
465 such fuel is used in motor vehicles registered exclusively for farming
466 purposes, (ii) such fuel is not delivered, upon such sale, to a tank in
467 which such person keeps fuel for personal and farm use, and (iii) a
468 statement, prescribed as to form by the Commissioner of Revenue
469 Services and bearing notice to the effect that false statements made
470 under this section are punishable, that such fuel is used exclusively for
471 farming purposes, is submitted by such person to the distributor, (H)
472 sold exclusively to furnish power for an industrial plant in the actual
473 fabrication of finished products to be sold, or for the fishing industry,
474 (I) sold exclusively for heating purposes, (J) sold exclusively to furnish
475 gas, water, steam or electricity, if delivered to consumers through

476 mains, lines or pipes, (K) sold to the owner or operator of an aircraft, as
477 defined in section 15-34, exclusively for aviation purposes, provided (i)
478 for purposes of this subdivision, "aviation purposes" means for the
479 purpose of powering an aircraft or an aircraft engine, (ii) such fuel is
480 delivered, upon such sale, to a tank in which fuel is kept exclusively
481 for aviation purposes, and (iii) a statement, prescribed as to form by
482 the Commissioner of Revenue Services and bearing notice to the effect
483 that false statements made under this section are punishable, that such
484 fuel is used exclusively for aviation purposes, is submitted by such
485 person to the distributor, (L) sold to a dealer who is licensed under
486 section 12-462 and whose place of business is located upon an
487 established airport within this state, [or] (M) diesel fuel sold
488 exclusively for use in portable power system generators that are larger
489 than one hundred fifty kilowatts, or (N) sold for use in any vessel (i)
490 having a displacement exceeding four thousand dead weight tons, or
491 (ii) primarily engaged in interstate commerce.

492 Sec. 13. (NEW) (*Effective July 1, 2014*) (a) There is established an
493 Office of Maritime Development within the Department of Economic
494 and Community Development for administrative purposes only. The
495 Office of Maritime Development shall promote and coordinate, in
496 consultation with the Commissioner of Transportation and the
497 Commissioner of Energy and Environmental Protection, the operations
498 of the Connecticut Port Authority established pursuant to sections 1 to
499 4, inclusive, of this act.

500 (b) The Governor, in consultation with the Commissioner of
501 Economic and Community Development, the Commissioner of
502 Transportation and the Commissioner of Energy and Environmental
503 Protection, shall, within available appropriations, appoint an executive
504 director to manage the daily activities and duties of the Office of
505 Maritime Development. The executive director shall have the
506 necessary qualifications to perform the duties of said office, including,
507 but not limited to, having experience in the development and
508 management of multi-use port operations, international trade,
509 maritime transportation, finance and economic development. Within

510 available appropriations, the executive director shall: (1) Appoint,
 511 employ and remove such assistants, employees and personnel as
 512 deemed necessary for the efficient and effective administration of the
 513 activities of the office; (2) develop a plan to transition the maritime
 514 functions of the Department of Transportation to the Connecticut Port
 515 Authority; (3) review and make recommendations for state policies
 516 that affect Connecticut's ports; (4) coordinate state, regional and local
 517 efforts to encourage the growth of Connecticut's ports; (5) develop a
 518 plan to eliminate the Office of Maritime Development and transition
 519 the functions of the Office of Maritime Development and the
 520 Connecticut Maritime Commission to the Connecticut Port Authority
 521 after the establishment of the Connecticut Port Authority; (6) identify,
 522 in collaboration with the Commissioner of Economic and Community
 523 Development, the Commissioner of Transportation and the
 524 Commissioner of Energy and Environmental Protection, qualified
 525 candidates for the board of directors of the Connecticut Port Authority
 526 and the executive director of the Connecticut Port Authority; (7)
 527 develop a plan concerning the bonding authority of the Connecticut
 528 Port Authority; and (8) prepare and submit, on or before January 1,
 529 2016, a report of activities, findings and recommendations concerning
 530 the establishment of the Connecticut Port Authority to the Governor
 531 and the joint standing committees of the General Assembly having
 532 cognizance of matters relating to commerce, transportation and the
 533 environment, in accordance with the provisions of section 11-4a of the
 534 general statutes.

535 Sec. 14. Section 13b-51a of the general statutes is repealed. (*Effective*
 536 *July 1, 2015*)

| | | |
|---|---------------------|-------------|
| This act shall take effect as follows and shall amend the following sections: | | |
| Section 1 | <i>July 1, 2015</i> | New section |
| Sec. 2 | <i>July 1, 2015</i> | New section |
| Sec. 3 | <i>July 1, 2015</i> | New section |
| Sec. 4 | <i>July 1, 2015</i> | New section |
| Sec. 5 | <i>July 1, 2015</i> | 1-79(12) |

| | | |
|---------|---------------------|------------------|
| Sec. 6 | <i>July 1, 2015</i> | 1-120(1) |
| Sec. 7 | <i>July 1, 2015</i> | 1-124 |
| Sec. 8 | <i>July 1, 2015</i> | 1-125 |
| Sec. 9 | <i>July 1, 2015</i> | 13b-51b |
| Sec. 10 | <i>July 1, 2015</i> | 13b-55a |
| Sec. 11 | <i>from passage</i> | 12-587(b)(2) |
| Sec. 12 | <i>from passage</i> | 12-458(a)(3) |
| Sec. 13 | <i>July 1, 2014</i> | New section |
| Sec. 14 | <i>July 1, 2015</i> | Repealer section |

TRA *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

| Agency Affected | Fund-Effect | FY 14 \$ | FY 15 \$ |
|--|--------------------|-----------------|------------------|
| Department of Revenue Services | GF - Revenue Loss | Less than 5,000 | Less than 50,000 |
| Department of Revenue Services | TF - Revenue Loss | Up to 10,500 | Up to 125,000 |
| Department of Economic & Community Development | GF - Cost | None | At least 161,000 |
| State Comptroller - Fringe Benefits ¹ | GF - Cost | None | At least 59,023 |

Municipal Impact: None

Explanation

The bill, establishes the Connecticut Port Authority (the "authority"). Establishing the authority has no state impact because (1) the authority under the bill is a quasi-public agency financially autonomous from the state and (2) the bill does not provide any state appropriation or bond authorization for the authority. The bill allows the authority to generate operating and capital funding through various sources, however the bill does not specify how the administration of the authority will be funded. It is presumed that all capital projects will be financed through the authority's bond issuances, and all other operational expenses will be financed through other revenue sources.

The authority's ability to issue its own bonds is not anticipated to

¹The fringe benefit costs for most state employees are budgeted centrally in accounts administered by the Comptroller. The estimated active employee fringe benefit cost associated with most personnel changes is 36.66% of payroll in FY 15 and FY 16.

have a state fiscal impact because the bonds are not a statutory financial obligation of the state.

Section 11 exempts certain fuels used in vessels primarily engaged in interstate commerce from the Petroleum Products Gross Earnings Tax . This results in a revenue loss of less than \$50,000 annually.

Section 12 exempts from the motor vehicle fuels tax any fuel sold for use by any vessel either (1) primarily used in interstate commerce or (2) displacing more than 4,000 dead weight tons. This results in a revenue loss of up to \$125,000 annually beginning in FY 15.

Section 13 results in a cost beginning in FY 15 by establishing an Office of Maritime Development within the Department of Economic and Community Development (DECD) to promote and coordinate the operations of the authority. The fiscal impact is detailed below.

The provision requires the Governor to appoint an executive director of the office. Assuming that salary for this position would be similar to other executive level positions in DECD, the annual cost is \$150,326 (\$110,000 in salary and \$40,326 in fringes). It is anticipated that one administrative staff at a cost of \$69,697 (\$51,000 in salary and \$18,697 in fringe) would be required to support the executive director.

The bill requires the executive director to employ staff deemed necessary to efficiently and effectively run the office. To the extent that additional staff are required, there will be additional salary and related fringe costs incurred by DECD.

The bill requires the executive director (1) to develop a plan to eliminate and transfer the Office of Maritime Development into the authority and (2) submit a report on recommendations concerning the establishment of the authority by January 1, 2016. It is anticipated that the transition will occur on or after the reporting deadline at which time there will be savings incurred by DECD related to salary costs. Furthermore, it is anticipated that the salary costs would be funded through the authority's funds after the transition.

It is unclear under the bill whether the employees in the office will maintain state employee status once transitioned into the authority. If the employees maintain state employee status, there will be no savings in the fringe costs associated with the transition.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation. It is anticipated that the salary costs to DECD will continue until the Office of Maritime Development transitions into the authority. It is unclear if there will be any state savings in fringe benefit costs associated with the transition.

OLR Bill Analysis**sHB 5289*****AN ACT ESTABLISHING THE CONNECTICUT PORT AUTHORITY.*****SUMMARY:**

This bill creates the Connecticut Port Authority (authority) as a quasi-public agency to coordinate development of state ports. The authority must:

1. coordinate port development, focusing on private and public investments;
2. pursue state and federal funding for dredging and other infrastructure improvements to increase movement of cargo through the ports;
3. market the ports' advantages to domestic and foreign shippers;
4. coordinate the planning and funding of capital projects promoting the ports' development; and
5. develop strategic entrepreneurial initiatives that may be available to the state.

The state's three deep-water ports are in Bridgeport, New Haven, and New London. Currently, local port authorities plan, develop, and manage these ports (see BACKGROUND). A state maritime office in the Department of Transportation (DOT) is responsible for maritime operations, including the state pier in New London, serves as the governor's principal maritime policy advisor, and staffs the Connecticut Maritime Commission. This commission advises the governor and legislature on state maritime policy and operations and supports development of the ports.

The bill eliminates the Maritime Commission. It requires the authority, instead of the commission, to recommend harbor improvement projects to the DOT commissioner.

It creates an Office of Maritime Development in the Department of Economic and Community Development (DECD) to promote and coordinate authority operations with other state agencies. The office, which is in DECD for administrative purposes only, must eventually terminate, moving its functions and those of DOT and the Maritime Commission to the authority.

It exempts from the (1) petroleum products gross earnings tax, certain fuels used in ships primarily engaged in interstate commerce and (2) state motor vehicle fuels tax, fuel used by ships (a) primarily engaged in interstate commerce or (b) displacing more than 4,000 deadweight tons.

EFFECTIVE DATE: July 1, 2015, except for the (1) creation of the Office of Maritime Development, which is effective July 1, 2014, and (2) fuel tax exemptions, which are effective on passage.

PORT AUTHORITY AS A QUASI-PUBLIC AGENCY

Under the bill, the authority is a body politic and corporate, a public instrumentality and political subdivision of the state, created to perform an essential public and governmental function. It is a quasi-public agency, not a state department, institution, or agency, and as such is subject to statutory procedural, operating, and reporting requirements for quasi-public agencies, including lobbying restrictions and an ethics code.

Under the bill, the authority may:

1. have perpetual succession and adopt bylaws;
2. adopt and modify an official seal;
3. hire assistants, agents, and other employees, establish necessary or appropriate personnel practices and policies, and engage

consultants, attorneys, and appraisers to carry out its purposes;

4. obtain insurance against liability or loss in connection with its property and other assets in amounts and from insurers as it deems desirable, and procure insurance for employees;
5. account for and audit authority funds and those of any recipients of authority funds; and
6. invest in, acquire, lease, purchase, own, manage, hold, and dispose of real property, including state pier real property under its control, and lease, convey, deal in, or enter into agreements with respect to the property on any terms necessary or incidental to carry out its purpose. Such transactions are not subject to approval, review, or regulation by any state agency, except that the authority cannot convey fee simple ownership in land (full ownership) under its jurisdiction and control without the approval of the State Properties Review Board and attorney general.

(Although the bill authorizes the authority to manage and dispose of state pier real property under its control, it does not explicitly transfer control of the state pier from DOT to the authority.)

Powers, Duties, and Responsibilities

In achieving its purposes, the authority has specific power to:

1. develop an organizational and management structure to best achieve its goals;
2. create a code of conduct for board members consistent with applicable law;
3. adopt rules, which are not considered regulations and therefore do not have to go through the regulatory approval process, to conduct its business;

4. receive and accept aid or contributions from any source of money, property, labor, or other things of value, to be held, used, and applied to carry out authority purposes, subject to the conditions of the grant or contribution, including gifts or grants from any federal or state department, agency, or instrumentality;
5. enter into agreements with any federal or state department, agency, office, or instrumentality, including the state treasurer;
6. borrow money or secure credit on a temporary, short-term, interim, or long-term basis;
7. issue bonds, bond anticipation notes, and other obligations, fund and refund them, provide for the rights of their holders, and secure them by pledging revenue, notes, and mortgages of others;
8. acquire, lease, hold, and dispose of real and personal property, including any state pier real property it controls, for its corporate purposes, except the authority cannot convey fee simple ownership in land (full ownership) under its jurisdiction and control without the approval of the State Properties Review Board and attorney general;
9. employ, among others, a marketing manager experienced in (a) port market development and promotion and (b) working with vessel operators, railroads, and the shipping and trucking industries;
10. set employee compensation, except for those subject to collective bargaining agreements;
11. engage consultants and other independent professionals needed to carry out the authority's purposes and to provide technical assistance;
12. maintain one or more offices;

13. sue in its own name;
14. mortgage its property to benefit the authority's bondholders;
15. make and enter into contracts and agreements needed or incidental to its duties and powers, including granting leasehold interests, concession, access, and development rights and privileges, and supplier, vendor, contractor, and consultant contracts; and
16. do all things necessary or convenient to carry out its purposes under the bill and the law.

§ 1 — BOARD OF DIRECTORS

The authority is governed by a 10-member board of directors, seven of whom are appointed, voting members, and three of whom serve ex-officio. The governor appoints three members; the House speaker, House minority leader, Senate president pro tem, and Senate minority leader, one each. Each appointed member serves a four-year term. Successor members are appointed by the governor and legislative leaders in the same manner, each to serve a four-year term, starting on July 1 in the year of their appointment. The seven appointees must have business and management experience and include people with experience or expertise in at least one of the following areas: (1) international trade, (2) marine transportation, (3) finance, or (4) economic development. The commissioners of the departments of energy and environmental protection (DEEP), DOT, and DECD serve as nonvoting, ex-officio members.

Four directors is a quorum for the transaction of any business or exercise of any power. The board may act by a majority of the directors present at any meeting at which there is a quorum. The board may delegate to four or more directors necessary and proper powers and duties under the bill and the board's by-laws.

Appointed board members cannot designate someone to perform

their duties for them. An appointed director who fails to attend three consecutive meetings or half of all meetings held in a calendar year is deemed to have resigned from the board. Any vacancy that occurs other than by the expiration of a term is filled in the same way as the original appointment for the remainder of the term.

Reimbursement and Conflicts of Interest

Each director is entitled to be reimbursed for actual and necessary expenses incurred performing his or her duties. Directors may be privately employed, or in a profession or business, subject to state and federal ethics and conflict of interest laws, rules, and regulations. However, regardless of the law, it is not a conflict of interest for a trustee, director, partner, or officer of any person, firm, or corporation, or any person with a financial interest in such a person, firm, or corporation, to serve as a director, provided he or she abstains from deliberating, acting, or voting on a matter concerning the person, firm, or corporation.

Removal of Board Members

The appointing authority may remove a board member for inefficiency, neglect of duty, or misconduct in office. Before doing so, the appointing authority must give the director a copy of the charges against him or her and an opportunity for a hearing, no earlier than 10 days after notice, where the director may respond personally or through an attorney. When a director is removed, the appointing authority must file with the secretary of the state a complete statement of the charges against the director and the appointing authority's findings on the charges, along with a complete record of the proceedings.

Board Officers

The governor appoints the board chairperson, who must serve a four-year term. The board elects a vice-chairperson and other officers from its members. Vacancies among officers must be filled within 30 days in the same way as the original selection. The board must establish by-laws to govern its procedures, and appoint committees

and advisory boards it finds convenient or necessary to conduct its business.

The initial board members may begin serving immediately on appointment, but cannot serve beyond the sixth Wednesday of the next regular legislative session, unless confirmed by the legislature according to law. All subsequent appointments must be made with legislative advice and consent according to law.

Board Procedures

The board must adopt written procedures to:

1. adopt an annual budget and plan of operations and require board approval before either can take effect;
2. hire, dismiss, promote, and pay authority employees, and require board approval before a position may be created or a vacancy filled;
3. develop an affirmative action policy;
4. acquire real and personal property and personal services, and require board approval for any non-budgeted expenditure of more than \$5,000;
5. contract for financial, legal, or other professional services, and require the authority to solicit proposals for these services at least once every three years;
6. award loans, grants, and other financial assistance, including developing eligibility criteria and an application process, and determining the role played by authority staff and directors; and
7. use surplus funds as authorized by the bill or law.

The authority continues as long as it has bonds or other outstanding obligations and until it is legally terminated. Upon its termination, all the authority's rights and properties pass to and become vested in the

state.

Executive Director

The board must appoint an executive director as the authority's chief administrative officer. The executive director (1) is exempt from classified service and receives compensation set by the board, (2) serves at its pleasure, and (3) cannot be a board member. He or she must have extensive experience in developing and managing multi-use port operations.

The executive director directs and supervises administrative affairs and technical activities at the board's direction. He or she must approve all salaries, allowable expenses for the authority and its employees and consultants, and incidental authority expenses.

The executive director must attend all board meetings; keep a record of authority proceedings; and maintain and have custody of all books, documents, and papers filed with the authority, and the authority's minutes or journal and its official seal. He or she may have copies made of the minutes and records, and may use the seal to certify them as true copies on which people may rely. The executive director must perform other duties as the board directs.

Reporting Requirements

The board must report annually, by December 15, on its (1) activities, (2) operating and financial statements, and (3) legislative recommendations to the governor and Commerce, Environment, and Transportation committees.

It must submit to the Appropriations, Commerce, Environment, and Transportation committees a copy of each authority audit conducted by an independent auditing firm no later than seven days after receiving it.

§ 13 - OFFICE OF MARITIME DEVELOPMENT

The bill creates an Office of Maritime Development (office) within DECD for administrative purposes only (see BACKGROUND). The

office must promote and coordinate authority operations in consultation with DOT and DEEP.

The governor, within available appropriations, and in consultation with DECD, DOT, and DEEP, must appoint an office executive director to manage its daily activities and duties. The office director must have experience in (1) the development and management of multi-use port operations, (2) international trade, (3) maritime transportation, (4) finance, and (5) economic development. Within available appropriations, the director must:

1. appoint, employ, and remove assistants, employees, and personnel needed to efficiently and effectively run the office;
2. develop a plan to move the maritime functions of the DOT to the authority (see BACKGROUND);
3. review and recommend state policies that affect the ports;
4. coordinate state, regional, and local efforts to encourage the growth of the ports;
5. develop a plan to eliminate the office and move its functions and those of the Connecticut Maritime Commission to the authority;
6. identify, together with DECD, DOT, and DEEP, qualified candidates for the authority board and executive director;
7. develop a plan on authority bonding powers; and
8. prepare and submit, by January 1, 2016, a report of activities, findings, and recommendations on the authority's establishment to the governor and the Commerce, Transportation, and Environment committees

§§ 11 & 12 - FUEL TAX EXEMPTIONS

The bill exempts, from the petroleum products gross earnings tax, bunker fuel oil, intermediate fuel, marine diesel oil, and marine gas oil

used in vessels primarily engaged in interstate commerce. The law already exempts these fuels when used in vessels displacing more than 4,000 dead weight tons. It exempts from the motor vehicle fuels tax any fuel sold for use by any vessel either (1) primarily used in interstate commerce or (2) displacing more than 4,000 dead weight tons.

BACKGROUND

Current Port Administration

Independent, locally created port authorities oversee the ports in Bridgeport, New Haven, and New London. No state or regional agency oversees local authority operation, but they operate under state statutes granting them broad powers to plan, finance, develop, and operate facilities in the locally designated port district (CGS §§ 7-329c to 329u). The current districts include privately owned and operated facilities, including docks and shipping terminals. New London's district includes the DOT-owned and managed state pier.

Connecticut Maritime Commission

By law, the commission, among other things, (1) advises the governor, transportation commissioner, and legislature on state maritime policy and operations; (2) develops and recommends a state maritime policy; (3) supports the development of the state's maritime commerce and industries, including its deep water ports; and (4) supports the development of the ports, including identifying new opportunities for them, analyzing the potential for and encouraging private investment in them, and recommending policies that support port operations. The commission is part of DOT (CGS § 13b-51a).

State Maritime Office

This DOT office is responsible for maritime operations, including the state pier in New London, serves as the governor's principal maritime policy advisor, and staffs the Connecticut Maritime Commission (CGS § 13b-51b).

Administrative Purposes Only

Agencies assigned to departments for administrative purposes only

must: (1) exercise any quasi-judicial, rule-making or regulatory authority; licensing; and policy-making functions which it may have independent of the department and without its approval or control; (2) prepare its budget, if any, and submit its budgetary requests through the department; and (3) hire its own personnel or enter into contracts, if authorized by law, or if the legislature provides or authorizes funds for these purposes (CGS § 4-38f).

COMMITTEE ACTION

Transportation Committee

Joint Favorable Substitute

Yea 32 Nay 0 (03/14/2014)